

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
DONALD KEATON SCHAFFER,) CASE NO. 05-65724 JPK
) Chapter 13
Debtor.)

ORDER OF DISMISSAL OF CHAPTER 13 CASE

On August 25, 2005, Donald Keaton Schaffer filed a petition in the United States Bankruptcy Court for the Northern District of Indiana to initiate a Chapter 13 case, which was docketed as case number 05-64718. On September 13, 2005, the Chapter 13 Trustee filed a motion to dismiss that case, to which the Court responded with an order for show cause hearing entered on September 15, 2005, scheduling that hearing for October 4, 2005.

On September 28, 2005, the very same Donald Keaton Schaffer filed a petition by which he sought to initiate another Chapter 13 case, this one docketed as case number 05-65724. At the time the second case was filed, the debtor's case number 05-64718 remained pending before the Court.

On October 5, 2005, following the October 4, 2005 show cause hearing, the Honorable Kent Lindquist entered an order dismissing case number 05-64718 which included a 180-day bar with respect to the filing of a subsequent case under the Bankruptcy Code.

It is axiomatic that a debtor can seek relief under the provisions of Chapter 13 in only one case at a time, and that while a Chapter 13 case remains open prior to its dismissal, a debtor in that former case may not initiate another Chapter 13 case. Thus, the Court finds that this case – case number 05-65724 – was a nullity from its inception, and that it should be dismissed "for cause" pursuant to 11 U.S.C. § 1307(c). The order of dismissal of case number 05-64718 entered on October 5, 2005 is effective according to its terms.

IT IS THEREFORE ORDERED:

1. That if the Plan of the Debtor is not confirmed, the Trustee, and all parties in interest are hereby allowed leave of Court of twenty (20) days from the date of this Order to apply to this Court, pursuant to §503(b), for any actual and necessary expenses of administration pursuant to §1326(a)(2). If the Plan of the Debtor has been confirmed the Trustee shall distribute any payment by Debtor in accordance with the Plan pursuant to §1326(a)(2).
2. That the Trustee is directed to file his final report and account.
3. That the bond of said Trustee be and it hereby is cancelled, and that the surety or sureties thereon be and they hereby are released from further liability thereunder, except any liability which may have accrued during the time such bond was in effect.
4. That if there is an income deduction order pending, the employer is hereby ordered to terminate deductions.
5. That the case shall be terminated and closed after completion of the foregoing.

IT IS FURTHER ORDERED that the Application to Pay Filing Fee in Installments, filed on September 28, 2005, is denied as moot.

Dated at Hammond, Indiana, on October 13, 2005.



J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution
Debtor
U.S. Trustee, Trustee
All Creditors
All Intervenors